

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FLASHPOINT TECHNOLOGY, INC.,)	
)	
Plaintiff,)	C.A. No. 08-139-GMS
)	
v.)	(CONSOLIDATED LEAD CASE)
)	
AIPTEK, INC., et al.,)	
)	
Defendants.)	
)	

NOTICE OF SUBSEQUENT AUTHORITY IN SUPPORT OF DEFENDANTS HTC CORPORATION AND HTC AMERICA, INC.'S MOTION TO STAY

Pursuant to D. Del. LR 7.1.2(b), Defendants HTC Corporation and HTC America, Inc. (collectively, "HTC") hereby provide this notice of subsequent authority relating to their pending Motion to Stay filed on September 8, 2014 in the 08-139 case (D.I. 492) and the 14-317 case (D.I. 67)¹. In its Motion, HTC moved this Court to stay the 139 and 317 cases pending the resolution of five *inter partes* review ("IPR") petitions filed by HTC concerning five patents-in-suit.

On December 8, 2014, the Patent Trial and Appeal Board ("PTAB") issued decisions for the first three IPR petitions filed and instituted *inter partes* review for all three patents-in-suit challenged in those petitions: U.S. Patent Nos. 5,943,093 (the "'093 patent"), 5,986,701 (the "'701 patent"), and 5,812,736 (the "'736 patent"). Copies of the PTAB decisions are attached as Exs. A - C.

¹ The 14-317 case was later consolidated with the 08-139 case. See Sept. 19, 2014 Remark on the 317 case's docket ("This case is consolidated with 08-CV-139 GMS given the identical schedules (excluding the Markman Hearing). All future filings shall be made ONLY in 08-CV-139 GMS."). Accordingly, "[t]he Motion to Stay (DI 67) has been terminated IN THIS CASE ONLY. It shall remain pending in 08-CV-139 GMS." *Id.*

Specifically, the PTAB instituted *inter partes* review for all claims of the '093 and '701 patents. Exs. A and B. For the '736 patent, the PTAB instituted *inter partes* review for claims 1-6, 13, and 14. Ex. C at 3. The PTAB did not institute *inter partes* review for claims 7-12 of the '736 patent, which include means plus function terms, because the PTAB was not persuaded that the portions of '736 patent specification cited by the Petitioner "has identified sufficiently the recited structure for [a] means plus function term." *Id.* at 7-8.

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